

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN W. MITCHELL and THOMAS A. JOHNSON

Appeal No. 95-2331
Application No. 08/127,854¹

HEARD: December 7, 1998

Before JOHN D. SMITH, GARRIS and WARREN, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1 through 9 which are all of the claims in the application.

¹ Application for patent filed September 28, 1993.

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The subject matter on appeal relates to a process for the production of an alkyl formamide wherein the improvement comprises utilizing a polyethylene glycol as a solvent and utilizing an alkali metal or alkaline earth metal alkoxide of a polyethylene glycol, propylene glycol, polyethylenepropylene glycol or mixtures thereof as the catalyst. This appealed subject matter is adequately illustrated by independent claim 1 which reads as follows:

1. In a process for the production of an alkyl formamide, wherein a gas-containing carbon monoxide is reacted at elevated temperature and pressure in a reaction zone with a nitrogen- containing compounds [sic, compound] selected from the group consisting of ammonia, a primary alkylamine and a secondary alkylamine, in the presence of a solvent and a catalyst, the improvement which comprises:

utilizing a polyethylene glycol as a solvent and
utilizing an alkali metal or alkaline earth metal
alkoxide of a polyethylene glycol, polypropylene
glycol, polyethylenepropylene glycol or mixtures
thereof as the catalyst.

The references relied upon by the examiner as evidence of obviousness are:

Couteau et al. (Couteau)	4,098,820	Jul.
4, 1978		
Epstein	4,761,499	Aug. 2,
1988		

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Japanese patent (Yamota)	62-255456	Nov.
7, 1987		

Claims 1 through 9 stand rejected under 35 U.S.C. § 103
as being unpatentable over Couteau in view of Japanese '456
and Epstein.

OPINION

The examiner is clearly incorrect in stating that "[t]he sole difference between the claimed process and the [Couteau] reference process is in terms of solvent" (Answer, page 3). Instead, as correctly argued by the appellants in their Brief, the here claimed process differs from patentee's process in terms of catalyst as well as solvent. Moreover, for the reasons well stated by the appellants in their Brief, the applied prior art including the Japanese '456 and Epstein references would not have suggested modifying the process of Couteau so as to utilize a solvent and catalyst of the type here claimed.

In summary, for the reasons set forth above and in the Brief, the reference evidence adduced by the examiner fails to establish a prima facie case of obviousness within the meaning of 35 U.S.C. § 103 in relation to the subject matter defined by appealed claim 1 which is the sole independent claim before us. It follows that we cannot sustain the examiner's § 103 rejection of claims 1 through 9 as being unpatentable over Couteau in view of Japanese '456 and Epstein.

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The decision of the examiner is reversed.

REVERSED

JOHN D. SMITH)	
Administrative Patent Judge)	
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)	
)	BOARD OF PATENT
BRADLEY R. GARRIS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
CHARLES F. WARREN)	
Administrative Patent Judge)	

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